

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
JOHN DE'BEY,

Plaintiff,

against

THE CITY OF NEW YORK, et al.,

Defendants.

CIVIL ACTION NO.: 20 Civ. 1034 (PGG) (SLC)

ORDER FOR PROPER SERVICE

SARAH L. CAVE, United States Magistrate Judge.

Plaintiff filed the complaint in this matter on February 10, 2020. See Complaint (ECF No. 3). Per Federal Rule of Civil Procedure 4(m) provides that service must be made within 90 days after the complaint is filed, and service must be made in accordance with the Rule 4.

On April 29, 2020, Plaintiff filed documents indicating that he served by certified mail the summons and complaint on the following Defendants:

1. NYC Health + Hospitals/Metropolitan (ECF No. 21);
2. Mubanga Nsofu (ECF No. 22);
3. The City of New York (ECF No. 23);
4. NYC Housing Authority (ECF No. 24);
5. New York City Police Department (ECF No. 25);
6. Marsha Weak (ECF No. 26);
7. Sara Roller Weiss (ECF No. 27);
8. Wise Towers (ECF No. 28);
9. Administration for Children's Services (ECF No. 29);
10. County of New York (ECF No. 30);
11. Officer Castellanos (ECF No. 31)
12. Department of Corrections (ECF No. 32);
13. Stephanie Eiel (ECF No. 34);
14. Family Court of Manhattan (ECF No. 35); and
15. Caitlyn Hall (ECF No. 36).

However, mailing the summons and complaint by certified mail does not constitute proper service under Federal or New York rules. See Fed. R. Civ. P. 4(e)(1)-(2); N.Y. C.P.L.R. §§ 308(1)-(2), 311(1), 312-a(a).

The New York City Law Department has appeared on behalf of NYC Health + Hospitals/Metropolitan, the Department of Corrections, the New York City Police Department, the Administration for Children's Services, the County of New York, and the City of New York. (ECF No. 40).¹

By **June 15, 2020** Plaintiff must properly serve Defendants Mubanga Nsofu, Marsha Weaks, Sara Roller Weiss, Wise Towers, Officer Castellanos, Stephanie Eiel, and Caitlyn Hall if they are to remain in this case.²

By letter submitted no later than **May 29, 2020**, Defendants City of New York and New York City Health + Hospitals/Metropolitan (collectively, the "City") are directed to notify Plaintiff and the Court whether they intend to contest the manner of service. If they do, Plaintiff must also properly serve the City defendants by June 15, 2020.

Dated: New York, New York
May 15, 2020

¹As the City has stated, "[t]he County of New York, the New York City Administration for Children's Services, the New York City Police Department, and the New York City Department of Correction are non-suable entities. See Ximines v. George Wingate High Sch., 516 F.3d 156, 160 (2d Cir. 2008) ("Section 396 of the Charter has been construed to mean that New York City departments, as distinct from the City itself, lack the capacity to be sued.").

²The Family Court of Manhattan is not a proper defendant and thus the Court does not order it to be properly served.

SO ORDERED



A handwritten signature in black ink, appearing to read "Sarah L. Cave", is written over a horizontal line.

SARAH L. CAVE

United States Magistrate Judge